THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26518 of 1999

Dated: 20.12.2006

Between:

S. Rama Krishna & others

… Petitioners

AND

The Singareni Collieries Limited,
Kothagudem & others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26518 of 1999

ORDER:-

This writ petition is filed for issue of a writ of Mandamus declaring Rule 3(b) and (c) of Annexure VI of Singareni Collieries Company Limited Executives Promotion Rules as arbitrary, discriminatory, illegal and violative of fundamental rights guaranteed to the petitioners under Article 14 of the Constitution of India and to set aside the promotions of respondents 3 to 14. Petitioners also sought for a direction to the 1st respondent to make promotions to E-2 grade without discrimination between professionally qualified Junior Accounts Officers (for short "J.A.Os") and others with retrospective effect, with consequential benefits.

The averments contained in the affidavit to the extent they are relevant to the present case are as under:

That some of the petitioners were recruited as J.A.Os. in E-1 grade in January 1995 and others were recruited to the said post in March 1997, after they have passed written examination and personality test. The qualification prescribed for the post of J.A.O. was degree with M.B.A. or P.G. in Commerce or Inter of C.A. or Inter of ICWA or double graduation. The process of recruitment is common for

all those with or without a professional qualification like pass in C.A. or ICWA; a common graduation list of successful candidates, after the written examination and the personality test, was prepared and based on ranking in the common graduation list, appointments were given. The petitioners averred that at the time of entry into service at E-1 grade, no classification between professionals and non-professionals was made and the recruitment is of a common written examination for both the categories followed by viva voce and that a common merit list is also prepared on the same basis. It is further averred that there are eight categories of officers in the 1st respondent Company viz., E-1 to E-8 and promotion from one category to another is based on merit-cum-seniority and the length of service stipulated in the Executives Promotion Rules (for short "the Rules") for being considered for promotion is three years in the lower category for all grades. The Departmental Committees select the candidates for promotion to the next higher category based on the confidential reports and performance appraisals. It is further alleged that the 1st respondent formulated a separate promotional policy vide Singareni Collieries Company Limited Executives Promotion Rules. While at the entry level at E-1 grade the recruitment is made in the executive cadre in Finance and Accounts branch, the promotion of eligible National Coal Wage Agreement Employees (for short "NCWA") possessing C.A./ICWA qualification to Assistant Accounts Officers E-2 grade is made through a selection process by DPC from the cadre of J.A.Os in the ratio of 1:1 between professionally qualified J.A.O's i.e., those possessing C.A./ICWA and those without such professional qualifications. The rule related to three years of minimum service will not be insisted in the case of professionally qualified J.A.O's and while the same is insisted for others. Clause 3(A)(c) of the said Rules further

provides the professionally qualified J.A.O's by giving promotion to E-2 grade after completion of two years of service irrespective of vacancies in E-2 grade, however, subject to overall vacancies in
E-2 and E-1 grades clubbed together.

The petitioners felt aggrieved by the Rules in respect of two aspects viz., (i) that in insisting of three years minimum service to the non-professional J.A.O's and (ii) by providing automatic promotion to the professional J.A.O's on completion of two years of service in E-1 grade, irrespective of availability of vacancies in E-2 grade.

A counter-affidavit has been filed on behalf of the 1st respondent Company. It is mentioned in the counter-affidavit that the company has formulated its promotion policy, given importance to the candidates having higher academic qualifications and provided them opportunities for quicker promotions. It is averred that in all, there are E-1 to E-5 grades and M-1 to M-3 grades. The Company formulated promotion Rules in the year 1988 containing clear guidelines with respect to each of these grades. The Company has justified its promotion policy of not insisting on the minimum required service in case of ICWA/CA qualified candidates on the ground that the professionally qualified and non-professional candidates constitute two different categories and that while there is not much difference in the nature of duties performed, there is certainly a difference by professionally qualified candidates vis-à-vis the non-professional candidates. It is mentioned that this classification is available in the professional branches such as Mining, Industrial Engineering and Finance and Accounts etc. It is further mentioned that Promotion Rules are formulated by the 1st respondent Company in pursuance of

the orders dated 16.07.1990 of this Court in W.P.No.12689 of 1991 and orders dated 03.04.1998 in C.C.No.1813 of 1997. As this classification is based upon rational criteria, the promotion policy does not suffer from any discrimination and consequently, the same has not violated Article 14 of the Constitution of India.

I have heard Sri C.V.R.Rudra Prasad, learned counsel for the petitioner and Ms. V.Uma Devi, learned counsel appearing for the 1st respondent. No one appeared for respondents 3 to 14.

As was set out in the foregoing, the petitioners' grievance is two fold viz., that while at the time they and respondents 3 to 14 were inducted into E-1 grade, the present promotion policy was brought into force; that it is only later the present promotion policy has been introduced, which discriminated the J.A.O's having C.A./ICWA qualifications from others, who do not possess these qualifications.

According to the petitioners, insistence of three years service for non-professional J.A.O's and automatic promotion to professional J.A.O's on completion of two years service of E-I grade without reference to the availability of vacancies, constitute invidious discrimination, as the same is not based on intelligible differentia.

Per contra, Ms. Uma Devi, learned counsel appearing for the 1st respondent Company drew my attention to the promotion policy, which is contained in Singareni Collieries Company Limited Rules approved by the Board on 23.04.1990.

Annexure-VI of the Rules provides for qualifications for appointment of J.A.O. (E-1) and promotion as Assistant Accounts Officer (E-2). Under Clause 3(A)(a), it is provided that the NCWA

employees passing CA/ICWA final examination would be considered for promotion to the posts of J.A.Os (E-1) subject to availability of the vacancies in E-1 grade at a given point of time on the basis of Special Assessment Reports on performance and interview by a Selection Committee consisting of Director (Finance), GM (Finance & Accounts) and G.M. (Personnel). It is also provided that vacancies of Assistant Accounts Officer in E-2 grade will be filled by DPC by J.A.O's in the ratio of 1:1 between professionally qualified J.A.O's (CA/ICWA) without insisting for three years minimum service in E-1 grade and other J.A.O's (those not possessing the qualification of CA/ICWA) prescribing minimum service of three years in E-1 grade. Under Clause 3(A)(c) J.A.Os possessing CA/ICWA qualification will be considered for promotion as A.A.O (E-2) if they could not be promoted under Clause (b) after completion of two years of service as J.A.O (E-1) irrespective of the vacancies in E-2 grade, however, subject to overall vacancies in E-2 grade and E-1 grade clubbed together. Under Clause 3(B), the promotion of non-professional J.A.O's (E1) is envisaged. The non-professional J.A.O's in Finance and Accounts Department with five years service in E-1 grade will be promoted to E-2 grade by reckoning the sanctioned strength of E-1 and E-2 grades clubbed together subject to recommendation of DPC.

Sl.No.5 of Schedule-I of the Rules deals with J.A.O. in Finance and Accounts Department (E-1) grade. The qualifications prescribed for internal candidates (both the petitioners and respondents 3 to 14 are internal candidates) are as under:

> "1. Commerce graduate POA's/J.A's with five years in 'A' or 'B' grade.
>
> 2. Commerce post graduate POA's/Accountants with three years in 'A' or 'B' grade.

3. Inter CA/ICWA.

4. M.Com., II class with 50% with five years post qualification experience in SCCL."

From an analysis of the afore-discussed Rules, it is clear that though at the entry level, the method of selection was common for professional and non-professional candidates, the difference in eligibility criteria as regards the academic qualifications, is worth noticeable. For appointment as J.A.O. of E-1 grade, while for non-professionals, the post-graduation degrees are prescribed, candidates with the qualification of Inter of CA and Inter of ICWA are made eligible. It is thus seen that the candidates with post-graduation qualifications are not equated to the candidates holding CA/ICWA qualifications. The company has thus placed CA and ICWA candidates as those possessing higher qualifications than the candidates possessing other post-graduation qualifications. Thus, in the wisdom of the 1st respondent Company, they have treated the candidates with CA and ICWA qualifications as possessing professional degrees.

With this background, if we analyze the promotion policy, one does not see any irrationality in Rule 3(A) (b) and (c), which provide for promotion to the professionally qualified J.A.O's without insisting on three years minimum service in E-1 grade and further provide for automatic promotion irrespective of availability of vacancies in E-2 grade on their completing two years of service as J.A.O's. The Company had evidently given weightage to the candidates holding professional qualifications in giving promotions, obviously, keeping in view the fact that these professionals cannot be allowed to stagnate for

long years.

In view of the fact that the petitioners admittedly do not hold CA and ICWA degrees and have never been treated as professionally qualified candidates even at the entry level, they cannot be allowed to make a grievance of the differential treatment being given to them qua the professionally qualified candidates.

I entirely agree with the contention of the learned counsel for the 1st respondent that the criteria evolved in the promotion policy is based on intelligible differentia, since the Company has made a distinction between professionally qualified candidates and other candidates such as the petitioners and therefore this classification does not offend Article 14 of the Constitution of India.

For the aforementioned reasons, I do not see any reason to interfere with the promotion policy of the 1st respondent as envisaged in the aforementioned Rules and accordingly the writ petition is dismissed. No order as to costs.

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C.V. NAGARJUNA REDDY, J

Date: 20.12.2006
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